

116TH CONGRESS
1ST SESSION

H. R. 2708

To prevent a person who has been convicted of a misdemeanor hate crime, or received an enhanced sentence for a misdemeanor because of hate or bias in its commission, from obtaining a firearm.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2019

Mr. CICILLINE (for himself, Ms. ADAMS, Ms. BASS, Mr. BEYER, Mr. BLUMENAUER, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BROWN of Maryland, Ms. BROWNLEY of California, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARSON of Indiana, Ms. CASTOR of Florida, Ms. JUDY CHU of California, Mr. CISNEROS, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. CLAY, Mr. COHEN, Mr. CONNOLLY, Mr. COX of California, Mr. CRIST, Mr. CROW, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Mrs. DAVIS of California, Ms. DEAN, Ms. DELAURO, Mr. DESAULNIER, Mr. DEUTCH, Mrs. DINGELL, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. ENGEL, Ms. ESHOO, Mr. ESPAILLAT, Mr. FOSTER, Ms. FRANKEL, Mr. GARCÍA of Illinois, Ms. GARCIA of Texas, Mr. GREEN of Texas, Mr. GRIJALVA, Ms. HAALAND, Mr. HASTINGS, Mrs. HAYES, Ms. HILL of California, Ms. HOULAHAN, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Ms. KAPTUR, Ms. KELLY of Illinois, Mr. KENNEDY, Mr. KHANNA, Mr. KILDEE, Mr. KRISHNAMOORTHI, Mr. LANGEVIN, Mr. LARSON of Connecticut, Mrs. LAWRENCE, Ms. LEE of California, Mr. LEVIN of Michigan, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. LOWEY, Mr. LYNCH, Mrs. MCBATH, Ms. MCCOLLUM, Mr. MEEKS, Ms. MENG, Ms. MOORE, Mr. MORELLE, Ms. MUCARSEL-POWELL, Mr. NADLER, Ms. NORTON, Mr. PALLONE, Mr. PAYNE, Mr. QUIGLEY, Ms. OMAR, Mr. PERLMUTTER, Mr. RASKIN, Mr. ROUDA, Mr. ROSE of New York, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RUSH, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SERRANO, Ms. SHALALA, Ms. SHERRILL, Mr. Sires, Mr. SMITH of Washington, Mr. SOTO, Ms. SPEIER, Mr. SUOZZI, Mr. SWALWELL of California, Mr. TAKANO, Ms. TITUS, Mr. THOMPSON of California, Mr. TONKO, Mr. TRONE, Mr. VARGAS, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Mrs. WATSON COLEMAN, Ms. WEXTON, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prevent a person who has been convicted of a misdemeanor hate crime, or received an enhanced sentence for a misdemeanor because of hate or bias in its commission, from obtaining a firearm.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Disarm Hate Act”.

5 **SEC. 2. PREVENTION OF PERSON WHO HAS BEEN CON-**

6 **VICTED OF A MISDEMEANOR HATE CRIME,**

7 **OR RECEIVED AN ENHANCED SENTENCE FOR**

8 **A MISDEMEANOR BECAUSE OF HATE OR BIAS**

9 **IN ITS COMMISSION, FROM OBTAINING A**

10 **FIREARM.**

11 (a) **DEFINITIONS.**—Section 921(a) of title 18, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 “(36) The term ‘convicted in any court of a mis-
15 demeanor hate crime’—

16 “(A) means being convicted by a court of an of-
17 fense that—

18 “(i) is a misdemeanor under Federal,
19 State, or tribal law;

20 “(ii) has, as an element, that the conduct
21 of the offender was motivated by hate or bias

1 because of the actual or perceived race, color,
2 religion, national origin, gender, sexual orienta-
3 tion, gender identity (as defined in section
4 249), or disability of any person; and

5 “(iii) involves the use or attempted use of
6 physical force, the threatened use of a deadly
7 weapon, or other credible threat to the physical
8 safety of any person; and

9 “(B) does not include—

10 “(i) a conviction of an offense described in
11 subparagraph (A), unless—

12 “(I) the person—

13 “(aa) was represented by counsel
14 in the case; or

15 “(bb) knowingly and intelligently
16 waived the right to counsel in the
17 case; and

18 “(II) in the case of a prosecution for
19 an offense described in subparagraph (A)
20 for which a person was entitled to a jury
21 trial in the jurisdiction in which the case
22 was tried—

23 “(aa) the case was tried by a
24 jury; or

1 “(bb) the person knowingly and
2 intelligently waived the right to have
3 the case tried by a jury, by guilty plea
4 or otherwise; or

5 “(ii) a conviction of an offense described in
6 subparagraph (A) if—

7 “(I) the conviction—

8 “(aa) has been expunged or set
9 aside; or

10 “(bb) is an offense for which the
11 person has been pardoned or has had
12 civil rights restored (if the law of the
13 applicable jurisdiction provides for the
14 loss of civil rights under such an of-
15 fense); and

16 “(II) the pardon, expungement, or
17 restoration of civil rights does not ex-
18 pressly provide that the person may not
19 ship, transport, possess, or receive fire-
20 arms.

21 “(37) The term ‘received from any court an enhanced
22 hate crime misdemeanor sentence’—

23 “(A) means a court has imposed a sentence for
24 a misdemeanor under Federal, State, or tribal law—

1 “(i) that involves the use or attempted use
2 of physical force, the threatened use of a deadly
3 weapon, or other credible threat to the physical
4 safety of any person; and

5 “(ii) based, in whole or in part, on a judi-
6 cial finding that the conduct of the offender
7 was motivated, in whole or in part, by hate or
8 bias for any reason referred to in paragraph
9 (36)(A)(ii); and

10 “(B) does not include—

11 “(i) the imposition of a sentence described
12 in subparagraph (A), unless—

13 “(I) the person—

14 “(aa) was represented by counsel
15 in the case; or

16 “(bb) knowingly and intelligently
17 waived the right to counsel in the
18 case; and

19 “(II) if the sentence described in sub-
20 paragraph (A) was imposed in a prosecu-
21 tion for an offense for which a person was
22 entitled to a jury trial in the jurisdiction in
23 which the case was tried—

24 “(aa) the case was tried by a
25 jury; or

1 “(bb) the person knowingly and
2 intelligently waived the right to have
3 the case tried by a jury, by guilty plea
4 or otherwise; or
5 “(ii) the imposition of a sentence described
6 in subparagraph (A) if—

7 “(I)(aa) the conviction of the offense
8 for which the sentence was imposed has
9 been expunged or set aside; or

10 “(bb) the offense for which the sen-
11 tence was imposed is an offense for which
12 the person has been pardoned or has had
13 civil rights restored (if the law of the appli-
14 cable jurisdiction provides for the loss of
15 civil rights under such an offense); and

16 “(II) the pardon, expungement, or
17 restoration of civil rights does not ex-
18 pressly provide that the person may not
19 ship, transport, possess, or receive fire-
20 arms.”.

21 (b) PROHIBITION ON SALE OR OTHER DISPOSITION
22 OF FIREARM.—Section 922(d) of such title is amended in
23 the first sentence—

24 (1) in paragraph (8)(B)(ii), by striking “or” at
25 the end;

3 (3) by inserting after paragraph (9) the fol-
4 lowing:

5 “(10) has been convicted in any court of a mis-
6 demeanor hate crime, or has received from any court
7 an enhanced hate crime misdemeanor sentence.”.

8 (c) PROHIBITION ON POSSESSION, SHIPMENT, OR
9 TRANSPORT OF FIREARM.—Section 922(g) of such title
10 is amended—

11 (1) in paragraph (8), by striking "or" at the
12 end;

13 (2) in paragraph (9), by striking the comma
14 and inserting “; or”; and

15 (3) by inserting after paragraph (9) the fol-
16 lowing:

17 “(10) who has been convicted in any court of
18 a misdemeanor hate crime, or has received from any
19 court an enhanced hate crime misdemeanor sen-
20 tence.”.

○